

REMARKS

In the Office Action dated June 5, 2002, claims 1-6, 8, 9, 11, 19 and 20-26 were rejected under 35 U.S.C. §103(a) as being unpatentable over Cordery et al. in view of Fathauer et al. Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over the Cordery et al. /Fathauer et al. combination, further in view of Thiel. Claim 10 was rejected under 35 U.S.C. §103(a) as being unpatentable over Cordery et al./Fathauer et al., further in view of Yankloski. Claim 27 was rejected under 35 U.S.C. §103(a) as being unpatentable over Cordery et al./Fathauer et al., further in view of Yankloski.

These rejections are respectfully traversed for the following reasons.

The Cordery et al. reference was relied upon by the Examiner in the previous Office Action dated January 31, 2002. As argued in Applicants' response filed April 15, 2002, and as acknowledged by the Examiner in the latest Office Action, the Cordery et al. reference does not disclose a dynamic operating mode, continuous movement of the item to be weighed, nor allowing weight measurement to be obtained with the postal item moving at a speed other than the predetermined regulated conveying speed. As argued in Applicants' previous response, there is a good reason for this lack of disclosure in the Cordery et al. reference, because the Cordery et al. reference is not intended for dynamic operation at all, but is, by contrast, designed for static weighing. As noted in Applicants' previous response, the Cordery et al. reference makes a weight measurement by analyzing the harmonic motion of the envelope (postal item) on the weighing pan. For making a weight measurement of this type, it is essential that the envelope come to a complete stop on the weighing pan, so that such harmonic motion will be as "pure"

as possible, i.e., so that it will be unadulterated by any transport movement of the envelope. This is explicitly stated at column 7, lines 32-35 of the Cordery et al. reference: "Obviously, if the envelope experiences any movement during oscillation, an inaccurate (sic, accurate) weighing would not be obtained." This is also made clear by Step 268 in the flowchart shown in Figure 14 of the Cordery et al. reference, which requires the operation of the drive motor to be held while a weighing takes place.

Therefore, it is not merely a matter of the Cordery et al. reference failing to disclose a dynamic mode; the intended operation of the Cordery et al. reference would be unable to proceed in a dynamic mode. As noted in Applicants' previous response, those of ordinary skill in the art understand a "dynamic mode" or "dynamic weighing" to mean that there is no stoppage of the postal item as it proceeds along the conveying path, including the time that the postal item interacts with the weighing pan or load cell. It would destroy the intended operation of the Cordery et al. reference to operate the device described therein in a dynamic mode. Modification of a reference so as to destroy its intended manner of operation is not a permissible basis for substantiating a rejection under 35 U.S.C. §103(a).

Therefore, regardless of the teachings of the secondary reference (Fathauer et al.) a person of ordinary skill in the art would have no motivation or inducement to modify the Cordery et al. reference to convert the device described therein from a static weighing device to a dynamic weighing device.

Secondly, the Fathauer reference is completely incompatible with the device described in the Cordery et al. reference. Applicants recognize that in order to substantiate a rejection under 35 U.S.C. §103(a) it is not necessary that the

references relied upon by the Examiner be physically combinable. Nevertheless, it is still incumbent on the Examiner to demonstrate that the proposed combination has at least some hope being successfully constructed.

The Fathauer et al. reference is for the purpose of weighing forage (i.e., livestock feed material) and therefore is not intended to provide a measurement of an individual item. The forage is continually placed on the conveyor so that a more or less continuous stream of material proceeds to be weighed. This is why the Fathauer et al. reference at numerous locations refers to a "weight rate" system. Given the different type of material to be weighed in the Fathauer et al. system, as compared to discrete items, such as postal items, to be weighed in the Cordery et al. reference and in the subject matter of the present claims, the *rate* that the material is conveyed is important, and must be known, in order to obtain a measurement in the Cordery et al. system. The speed regulation disclosed in Fathauer et al. reference are intimately connected with this need for accurate knowledge of and control of the conveyor rate. Such knowledge is not at all relevant in the Cordery et al. reference which, as noted above, merely undertakes a static measurement. Therefore, there would be no purpose or need to modify the Cordery et al. reference to employ the conveyor speed regulation disclosed in Fathauer et al., because making a weight measurement in Cordery et al. reference has nothing whatsoever to do with the conveying speed of the material to be weighed.

In summary, the Cordery et al. reference teaches that the weight measurement therein *must* be a static measurement, otherwise the intended measurement technique will not operate correctly. The weight measurement in the Fathauer et al. reference, by contrast, *must* be a dynamic arrangement, given the

different nature of the material (forage) to be weighed, and the weight measurement is intimately connected with the conveyor speed. There is no reason why a person of ordinary skill in the art would seek to modify a device wherein a static weight measurement is made in accordance with teachings from a device wherein a dynamic measurement must be made. This, coupled with the fact that modifying the Cordery et al. reference to employ dynamic weighing would destroy its intended manner of operation, makes clear that a person of ordinary skill in the art would have no basis whatsoever to modify the Cordery et al. reference in accordance with teachings of Fathauer et al.

If a person of ordinary skill in the art had the insight to modify a static weighing device in accordance with the teachings of a dynamic weighing device, Applicants respectfully submit this would be an insight supporting patentability, rather than a reason for negating patentability.

Claims 1-6, 8, 9, 11-19 and 20-26, therefore, would not have been obvious to a person of ordinary skill in the art under the provisions of 35 U.S.C. §103(a) based on the teachings of Cordery et al. and Fathauer et al.

Since the Cordery et al./Fathauer et al. combination was used as the basis for rejecting the remainder of the claims, in combination with different secondary references, Applicants respectfully traverse those further rejections for the same reasons discussed above. Claim 7 adds further steps to the non-obvious method of claim 1, and the remaining dependent claims add further structure to the non-obvious combination of claim 8, and therefore the dependent claims would not have been obvious to a person of ordinary skill in the art under the provisions of 35 U.S.C.

§103(a) based on the Cordery et al. /Fathauer combination, even if further modified by any of the secondary references.

Independent claims 1 and 8 have been editorially amended to even further clarify the fact that there is no stoppage of the postal item on the weighing pan in the dynamic weighing mode.

All claims of the application are therefore submitted to be in condition for allowance, and early reconsideration of the application is respectfully requested.

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

Please amend claim 1 as follows:

1. (Twice amended) A method for controlling a dynamic scale for processing mixed postal items having respectively different formats, said dynamic scale having a motor-driven conveyor for moving a postal item, in a dynamic operating mode, in succession with continuous movement through an entry region of the scale, a weighing pan, and a discharge region of the scale, said method comprising the steps of:

in said dynamic operating mode, supplying a piece of mail to said entry region of the scale at a predetermined regulated conveying speed which is independent of the format of the piece of mail, and conveying said piece of mail through said entry region of the scale to said weighing pan;

deactivating regulation of the conveying speed during a measuring time range while said postal item is conveyed without a stoppage through said weighing pan and obtaining a weight measurement of said postal item, thereby allowing said weight measurement to be obtained with said postal item moving at a speed other than said predetermined regulated conveying speed; and

after said measuring time span, re-activating regulation of the conveying speed and moving said postal item at said predetermined regulated conveying speed from said weighing pan through said discharge region of said scale.

Please amend claim 8 as follows:

8. (Twice amended) A dynamic scale comprising:
- a conveyor arrangement for conveying postal items having a conveyor belt driven by a motor;
 - a scale housing having an entry region for postal items and a discharge region for postal items;
 - a weighing pan connected to a weighing cell, said weighing pan being disposed between said entry region and said discharge region and said conveyor arrangement, in a dynamic operating mode, conveying a postal item with continuous movement without a stoppage in succession through said entry region, said weighing pan and said discharge region; and
 - a controller which operates said motor to move said belt at a predetermined, regulated conveying speed when a postal item enters said entry region, said controller deactivating regulation of said conveying speed while said postal item is moving through said weighing pan during a measuring time span during which a weight measurement of said postal item is made, allowing said weight measurement to be made with said postal item moving at a speed other than said predetermined, regulated conveying speed, and, after said measuring time span, said controller re-activating regulation of said conveying speed to move said postal item on said belt through said discharge region.